

Epistola Medio-Saxonica.

OR,

Middlesex first Letter to his Excellency,

The Lord Generall Cromwell;

Together with the Petition concerning Tythes
and Copy-holds of Inheritance, presented to the Su-
pream Authority, *The Parliament of ENGLAND.*

Wherein the tortious and illegall Usurpation
of Tythes, contrary to *Magna Charta*, is discovered;
blemished dignity of Copy-holders revived, and how
Lords of Manors have formerly inroached upon
their liberties, by impoling Arbitrary Fines
and multiplying of Heriots.

Whereunto is annexed two Additionall Cases concer-
ning the unreasonable exactions of Fines and Heriots,
contrary to Law in these latter times.

Published for the satisfaction and vindication of the
people of *England*, from all decimall Oppression
and Lordly Tyranny.

LONDON,

Printed by J. B. for William Larnar, at the Black-
more, near Fleet-Bridge, 1653.

In Decimas & serva Prædia Carmen
Hexastichon.

SImos Angliacus, nec sacra oracula suadent,
Cur solvis Decimas, Anglia lusa, tuas?
Si felix redijt seclum, vixitque Tyranni,
Cur servile feres, Anglia mæsta, jugum?
Si pia vota tulit Miles, totusque Senatus,
Reddere cur differs, Anglia, vota Deo?

Upon Tythes and Copy-holds, an
Hexasticke Verse.

IF English Custome, nor Gods Words perswade,
Why yet are Tythes, deceived *England*, paid?
If th'age of Gold be come, and Tyrants broke,
Why dost thou, *England*, beare the servile Yoke?
If th'Army, and the Senate, Vowes have made,
Why are they by them, *England*, thus delay'd?



Middlesex first Letter to his Ex- CELLENCIE.

May it please your Excellency,



He sweet odour of your name, and unparallel'd affection towards goodnesse, and good people, hath imboldned us, in the behalfe, and at the intreaty of the wel-affected of this County, to communicate to your Excellency, our intended *Addresse* by way of Petition to the *Supream Authority*, for the removal of some grievances which have layen long

and heavy upon the free-borne people of this Nation; that so receiving your judicious approbation and assistance, we might with the greater alacrity make our procedure. Now Sir, the Heads of our Petition are onely two; namely the removall of that usurped Popish relique Tythes, and the abolishing of that Tyrannical Oppression and slavish tenure of Copy-holds of inheritance, finably at the Lords wil as things Diametrically repugnant to divine and humane Lawes, *Levi. 25. 14. Ye shall not oppresse one another,* and *Jer. 30. 20. I will punish all that oppresse them:* where your Excellency may be pleased to take notice of a prohibition not to oppresse the people of God, and of a punishment threatened to those that doe it. And in *Exo. 23. 5. There is a command, that if we see the Ass of our enemy lying under a burthen, that we shall not passe by but help him:* If therefore an oppressed brute Creature ought to be relieved by us, how much more a ratioll? how much more a Christian and wel-affected people? who in the blackest times of

danger and perill, have adhered to the State with undaunted resolutions, adventuring lives, goods, and all for the glory of God, and the preservation of this Common-wealth; wherefore let not, O let not our State bury in silence the day of this peoples love, who, next to your excellency and renowned Army under God, have been a principall meanes of the glorious freedome our State now injoyes. But because most men looke more upon humane, then divine Authority, especially where their own private interest falls in; and as it is in the 5th. Book of *Aristotles Ethicks*, Can any be vertuous and iust in matters of their owne concernment, but not so in what concernes the publique, which occasioned *Nobile illud dictum Biantis*, that noble saying of that Grecian Sage, ἀγαθὸν τὸ ἑῷ ἀνδρὶ διεξέρ. Power will discover the nature and disposition of every man. Therefore for the satisfaction of those, whose judgements are over-balanced in the scale of earthly interest, (not in the least reflecting on your Excellency, whom we experimentally know: to be of a more divine temper) we shall in brieve procure some humane authorities, as motives to the removall of the aforesaid grievances.

First, By the 9th. Chaper of *Magna Charta*: It is Enacted, that no man shall be disseised, or put out of his free Tenement, liberties, or Customes, but by the lawfull judgements of his Peers, or Law of the Land: which Charter is of so great Authority, that it hath been confirmed above thirty times. Now Tythes being a part of every mans free-Tenement, or free-hold and birth-right, ought not to be taken away from him, either by the Improprate person, or appropriate Parson, for these reasons.

First, Because by the Stat. of *Edw. 1. ch. 2*. All judgements given against any points of the Charters of *Magna Charta*, or *Charta de Foresta* are adjudged void.

Secondly, By the Stat. of 42. *Edw. 3. ch. 1*. If any Statute be hereafter made against either of these Statutes, it shall be void. *Cookes 1. p. Just. fo. 81*.

Thirdly, In *Bonbams Case*, in the 8th. Book of *Cookes Reports*, and in *OK and Students*, it is laid down for Law, that Act of Parliament against common Right or Reason, are *ipso facto* void.

And lastly, It is proved by *Jenkins, fol. 139*. That the Common Law shall controule Acts of Parliament made against Right
or

or Reason, (such as all Statutes for Tythes are) and adjudge them to be void, because they deprive men of a part of their right contrary to *Magna Charta*, and against the will of the Proprietor or owner; so that hence it will plainly appeare, that those Statutes which have been made by former Parliaments concerning Tythes, in times of Popery and ignorance, and upon false grounds of their divine right, being diametrically repugnant to *Magna Charta*, and destructive of common right; then were, and now are totally void, null, and of no force; and that all Tythes taken by vertue of them, have beene usurped, illegall, and unwarrantable. And because some seeing the weaknesse of their Statute-Law-foundation, may flie from thence to the Umbrage and shelter of Custome; we Answer. It is a Maxime in Law, that a man cannot claime any thing by Custome or Prescription against a Statute, unlesse the Custome or Prescription be saved by another Statute, *Cookes 2. p. Just. fo. 21.* Now by the aforesaid Charter of *Magna Charta*, which was confirmed by *H. 3.* about the yeare, 1218. Tythes as well as the rest, did belong to every mans Tenement and Free-hold; and so farre were the Clergy at that time from claiming any Tythes to be due unto them by any Custome, as that, on the contrary, it is acknowledged at the Counsell of *Lateran*, under *Gregory* the 10th. Anno 1274. and in the Decretall Epistle sent from Pope *Innocent* the 3d. to the Arch-Bishop of *Canterbury*, about the yeare 1200. that the people of this Nation did by generall Custome till then observed, dispose of their Tythes according to their owne free-will and pleasure: So that it is very cleare at the confirmation of *Magna Charta*, no Custome of the Land gave Clergy men to have Tythes of every Proprietors Estate, but that they were the proper right and inheritance of the owner of the Land. And for confirmation hereof, it is said by Learned *Selden* in his Booke of Tythes, that in *H. 2.* his times, which was a little before the said, Decretall, Parathiall right was the right, of having the Cure and offering of the Parishes; and that to that Parothiall right, no right of Tythes was annexed by the practise of that time. Whereupon it was usuall with the Religious and secular of the Clergy, to covenant with their

Tenants to pay them the Tythes of their Lands, that so they might prevent the Minister of the Parish, where the Lands lay. Now if there had been then any Parochiall right or custome for receiving Tythes, how could such a Covenant have prevented the Parochiall Minister? And that this is a cleare truth, is evidenced by an Act of Parliament, in the first yeare of Rich. the 2. and in the yeare of our Lord 1377. in these words. It is accorded, that at what time that any person of Holy Church be drawne in plea in the Secular Court, for his Tythes taken by the name of Goods taken away; and he, which is so drawne in Plea, maketh an exception or alledg-eth, that the substance and suite of the business is onely upon Tythes, due of right and of possession to his Church, or to another his Benefice, that in such case the Generall averment shall not be taken without shewing specially how the same was his *Lay Cressall*: That is to say, for him to aver and maintaine, that the Tythes he laid claime to, did belong unto him by Parochiall right and custome, as Minister of the place, was no good and allowable plea in Court, but that he must shew in speciall, and in particular, how the said Tythes he laid claime to, became his *Lay Cressall*; whether by grant gift or otherwise: So that here is not onely an acknowledgement of the Pope and Clergy, but an Act of Parliament against Parochiall right and custome of Tythes. And yet should we grant them a custome for Tythes, which they cannot claim without blushing; of what weight, how like a plume would it be, being put in the Scale with *Magna Charta*. And although it may be objected, that they have now a long time enjoyed them, even time out of minde; yet that will not availe much, since it is not a lawfull user, but an abuser and tortious Act, carryed on with a power contrary to all Law, equity and justice.

No cover in customes, *Non diuturnitas temporis, sed soliditas rationis est consideranda*, Not length of time, but soundnesse of reason is to be weighed: Upon which ground at a Parliament at Kilkenny in Ireland, in the 4th. yeare of Edw. 3. The Irish customes called the *Brehon Law*, though of long continuance were null'd by that Parliament, upon this ground or Maxime, that *malus usus est abolendus*, an ill custome (as Tyth-taking is) ought

ought to be abolished. So that the plea of a long continued custome of taking Tythes, contrary to *Magna Charta*, and common right, will but little conduce to the justification of its Authority and lawfulness. And if from hence, any shall flie to Scriptures refuge, which none but avaritious Sciolists in sacred law and language will attempt; we shall if the weakness of their owne arguments be not a cleare confutation of their error and injustice, returne a modest and sober answer.

Secondly and lastly, as to the other branch of our Petition concerning Copy-hold Lands of inheritance, finable and also heriotable, by the Tyrannicall practise of many at the will of the lord of the Manor: wee humbly conceive that by the equity of the which chapter of *Magna Charta*, Let no man bee distreyned to doe greater service for his free Tenement then he ought, grounded upon the 25. ch. of *Levit. v. 17*, Yee shall not oppresse one another: all those arbitrary and unreasonable exactions, of Fines and Heriots, exercised of late yeares by Tyranicall Lords of Mannors, have beene illegall, and repugnant to the equity, if not the letter, of the said Charter; and have runne beside the channell of charity, law, and justice; but because many of late and former times have laboured much to vilifie and obscure the credit and esteem of Copy-holders of inheritance, and their tenure, thereby to make way for their pride, avarice, and Tyranny; we shall therefore make a little further inquiry into the discovery of them. *Bracton lib. 4. ch. 28.* saith, that *Villanagiorum, aliud parum, aliud privilegiatum*, Of villenages, one kind is pure and perfect villenage; the other a more free honourable and privileged. Where note that Villenage in its proper and genuine signification, is nothing but the service of a Husbandman, which may be either honourable or base, according to the quality of the person and tenure: And therefore he saith, Pure or base Villenage is that, whereby either a free-man or a bond-man so holds of his Lord, as that he is tyed to do what ever he shall command him, not knowing over night what he must doe the next morning; and alwaies in all things is held two uncertainties; and of this sort is *Littles Tenure* of Villenage,

tenage, whose large Tract upon that subject, might well have been spared, since their were very few, if any, even in his time, who held by that base and unworthy Tenure.

Now the other sort called by *Bracton*, *Privilegiatum*, Priviledged Villenage; or as he termeth it in his 2d. Book, and 8th. and 35th. Chap. *Villanum Soccagium*, qualified Soccage, which is the same with *Littletons* Tenure of Copy-holds; where the Tenants hold their Land by Copy of Court Roll, as *Coke* in his Commentaries upon *Littleton* 1. p. *Inst. fo. 58.* acknowledge. So that *Bractons* qualified or priviledged Soccage, and our Copy-holds, are one and the same, which is more clearly proved by the same manner of conveyance in alienations: for saith he in *li. 2. cap. 8. Si Villanus Sockmanus Villanum Soccagium*; If a qualified Sockman or Copy-holder, will convey his qualified Soccage to another; let him surrender the same unto the hands of the Lord or his Steward, and let the other receive it from them; which is the forme we now use. And in his first Booke and 2d. Chap. they are called *Gleba ascriptitij*, Inrolled Tenants of the Glebe or Manor; and who did enjoy such priviledges, as that they could not be put out, so long as that they paid their certaine and yearly pensions, whosoever was Lord; neither might they bee compelled to keepe their Tenement, but might alien when they pleased, and they then, as we now, did hold their Tenements, *ad voluntatem Domini, secundum consuetudinem Manerij*, At the will of the Lord according to the custome of the Mannor: Yet was not that such an unbridled will, as many pragmaticall Novices in Jurisprudential Learning now imagine, not a naturall will, but a legall will, bounded by reason, law, and custome. So that if the Lord of the Mannor did at any time goe about to disturbe, or put them out of their Tenements, although they might not have an Assize, yet they had *Pacuum breve de Resto secundum consuetudinem Manerij*, a small writ of right, according to the custome of the Mannor, for to regaine their Estates. *Bracton lib. 1. cap. 2. & lib. 5. cap. 2.* Where the writ is likewise expressed. And in his 4th. Booke and 28th Chap. He saith, That if he Tenant be ejected by his Lord, he shall have a Jury impannel'd to inquire of the Covenant, and consent of the Lord

Lord, in admitting of him to be his Tennant, whom he rejected, and he shall be restored; because, *Jur i non debent jus suu dominum, contra voluntatem & consensum suum, quia semel voluit conventionem*, The Lawes ought not to relieve the Lord against his owne will and consent, because he hath made a Covenant, that his Copihold Tenant shall enjoy his Tenemet, performing his services and customes, *H. 2. cap. 8 & li. 4. cap. 28.* And in the Reigne of E. 3. and E. 4. Sir *John Danby* and *Thomas Brian* Lord chiefe Justices, were of opinion, that Copy-holders ejected by their Lords, might have an Action of Trespasse. Neither is *Bracton* single in his good esteeme of privileged Sockmans, or Copy-holders, since *Fleta* writ by a great Lawyer about E. 2 his time, and *Ockam* in *H. 2.* his Reigne, do both of them honour Copy-holdes in those elder times, with the Name of customary Tenants; and *Ockam* not onely spake worthy of them, but of their Originall, whose workes through the envy and tyranny of the times, have not had the liberty to appeare in publique. And *Lambard* in his Booke *De Priscis Anglorum legibus*, Of the ancient Lawes of England, saith, That Copy-holds were long before the Conquest, and then call'd by the name of *Bookeland*: And since the Conquest they have beene honoured with many worthy appellations, as of Copy-holders in *H. 5.* of Tenants by the Rod *H. 4.* of Tenants by the Roll according to the will of the Lord in *E. 3.* of Customary Tenants, in *E. 1.* *Cookes* 1. p. *Just. fol. 58.* And because Copy-holders have been much abused in the late corrupt times of Monarchy not onely in the disgracing of their Tenure, but also in the altering and multiplying their Customes and services: great persons fallily pretending, as if poore Copy-holders had *nil de jure*, but all *de gratia*, nothing of right, but all of favour. Therefore for further satisfaction, wee will make some brieve discovery therein. *Bracton* in his first Booke and second Chapter, saith, That the workes of privileged Sockmans or Copy-holders were, though servile, yet certaine and nominated. And againe in his 4th. Booke and 28th. Chapter, That qualified Sockmans had their Tenements granted unto them to hold

by Covenant, for certaine services and customes named and expressed, although the services and customes were servile; that is with Cart, Plough or the like, at certaine set times in the yeare, according to agreement. And againe a little after *Villani Sockmanij villans faciunt servitia.* Qualified Sockmans doe servile workes and services, yet certaine and determined. Now *Coke* upon *Magna Charta, ch. 13.* saith, That in these words, reasonable customes, and reasonable services, all Fines whether certaine or uncertaine, and other Customes and Duties are comprehended: And if so, then for certaine all Fines of Copy-holdes were in *Bractons* time, certaine, and not as now uncertaine and Arbitrary; but yet by the way take notice, that he doth not speake of any Fines to be paid by Qualified Sockmans, upon death or alienation: that word under that Nation being unknowne to him or any other (as we conceive) of that age. And having in his 2d Booke and 35th. Chapter, treated at large, who ought to doe Homage, and who Fealty, and having shewed that both free and qualified Soccagers ought to doe Fealty to their Lords, comes in the following Chapter to treat of Relieves: and in the eighth branch of the Argument of that Chapter, makes this Querie, *Si de Soccagiis dari debet relevium*, If of Soccages (speaking plurally) a reliefe ought to be given, which must be understood both of free and qualified Soccage; and towards the latter end of the Chapter, saith, *Et nunc videndum, si de Soccagio dari debet relevium*; And now next comes to be considered, whether a Reliefe ought to be given of Soccage; which being spoken indefinitely, and in generall, without adding any Epithet, either of free or qualified, must in all construction if you consult the beginning of the Chapter, bee understood both of free and qualified Soccage. So that that duty or performance, which upon the death of the Auncester, was given in *recognitiōem Dominij*, by way of acknowledgement of his Dominion and Lordship; and as he saith, *adrelevandam hereditatem*, to relieve and raise the Estate and Inheritance into the hands of the Heire, was *Prestatio quedam loco relevij*, a certaine prestation or performance, instead of a Reliefe

(for he will allow it properly to be a Reliefe, which the Soccager either free or qualified paid) due onely upon death, but never upon alienation, and was ever certaine, namely a double Quitrent, that is to say, one yeares Rent due to the Lord, besides the yearly Quitrent. And this is that Duty as we clearly conceive, which since they have new named and called a Fine, and exacted not onely upon deaths of Copy-holders, but Alienations also; and not onely according to two yeares quittrent, as by Law they ought, but according to their unreasonable lusts and desires, forcing from their Tenants not onely two yeares, but even three yeares Fine and more, according to the yearly value and Rent of the Land: So that the Copy-holder, who was wont according to the ancient Law and Custome, to pay for a Fine upon Death onely; but two yeares value according to the Quitrent, is now driven to pay two and three yeares value according to a full and rackt Rent; and that upon alienations too, contrary to the said ancient Law and Custome, and all good conscience. Neither is *Bracton* alone in ascertaining the services and customes of Copy-holders, but others have said the same, and namely *Britton* a Bishop, in E. 1. and very learned in the Lawes; and who at the Kings Command composed them into a compleat Volum: where treating of Copy-holders of Inheritance, settled it downe for positive Law, that such were their priviledges, that their Lords might neither increase their services (under which as before is shewed, are comprehended Fines) nor change them, to make their Tenants doe other services or more. *Brit. fo. 165.* And accordingly was the judgement of a whole Parliament in the same Kings Reigne, though ill, (if not of purpose) and viciously translated; which yet for further satisfaction we will here set downe, as wee have received it pointed; and comma'd by *Cooke* in his 4th. Booke of Reports, in *Browns Case*, in these words, *Inquirendum est etiam de customariis, viz. quot sunt customarii, & quantum terra quilibet customarius teneat, que opera, quas consuetudines faciat, & quantum opera & consuetudines cujuslibet customarii valeant per annum, & quan-*

inui reddit de reddit. Assise per annum, preter opera & consuetudines quas possunt talliari, & quæ non ad voluntatem Domini, which in English according to a true and Grammaticall translation, is as followeth.

Inquiry is to be made also of customary Tenants, that is to say, How many customary Tenants there are, and how much l and every customary Tenant holdeth, what workes, what customes he doth, and how much the workes and customes of every Customary Tenant are worth by the year; and how much is paid (meaning by every one) of the Rent of Assize by the year, besides their workes and customes which may be rated and valued, (as two or three dayes worke in a year with Plough or Cart) and which are not at the will of the Lord : Whereby it appears that a whole Parliament esteemed of them as customary Tenants, that their Rent was accounted then parcell of the Rent of Assize ; and that all their workes and customes were certaine, according to the opinion of those two great Lawyers before quoted, who lived in or neare the said times, one whereof was Lord Chief Justice of England, and the other a great and learned Bishop. And forasmuch as Copy-holders have beene as much oppressed in Heriots, as in any other duty or service; we will therefore in brieve speake a word or two concerning the ancient Law in that point. *Fleta lib. 2. cap. 50. and Brit. fo. 178.* both say, that the Copy-hold Tenant, making his Testament upon his Death bed, ought to make an acknowledgement of his Lord, by giving of him one Heriot. And *Bracton H. 4. cap. 26*, saith, that the Soccager, whether qualified or free, ought at his death to respect his Lord with one Hariot, *Quæ tamen præstatio est magis de gratia quam de jure*, which prestation or performance, saith he, is rather of favour then of right, and doth not at all touch the inheritance. And if we looke a little higher, *Glanvill* Lord Chief Justice of England, in *H. 2. lib. 7. cap. 5. De legibus & consuetudinibus Angliæ*, of the Lawes and Customes of England, saith in these words : *Potest quilibet liber homo majoribus debitis non involutus &c.* Every free man not greatly indebted, may in his sicknesse make a reasonable de-

devise of his goods under this forme, according the custome of the Country, that he doe acknowledge his Lord with the best and principallest he hath ; next the Church, and afterwards other persons, as he pleaseth : but saith he, whatsoever the customes of divers Countries and places are in this point, according to the Lawes of the Kingdome, no man is bound, in his Testament to leave any thing to any person, but at his free will and pleasure. For every mans will, saith he, is free, as well in reference to Testamentary Lawes, as to other Lawes. So that here you may plainly perceive, that by the Law of the Land, according to the opinion of this great Judge, no Heriot was due ; and if there were any due by any particular Custome, it was but one, and that upon death onely, and must be given by the Testator by Will too, and not be much in debt neither ; whereby it appeareth according to the opinion of those foure great Lawyers ; *Fleta, Britt. Bracton, and Glanvill* ; all those Heriots which have beene exacted of late in such multiplied numbers, have beene illegall and unjust and contrary to the good Lawes and Customes of this Nation in former times.

Now by what hath been briefly said, it may easily appeare to any indifferent man, who hath incroached most upon each other Liberties ; whether the great and potent wealthy Lord of the Mannor, carrying all things before him by the virtue and charme of his unrighteous Monopoly, or the poore despised trampled-under-foot-Copyholder, who hath beene forc't to loose his Liberties, to preserve his lively-hood. Whereas according to those great Authorities of *Bracton, Britton*, and others above quoted, all Fines, Customes, and other services of Copy-holders, ought neither to be changed nor increased ; and that according to others, who have strained the Law beyond its due bounds, in favour to Lords of Mannors, all unreasonable Fines and Services are forbidden ; and if all unreasonable, then certainly all Arbitrary, since it is abundantly made knowne by long experience to the people of this Nation, that all Arbitrary power, (as is the power of Lords

of Mannors, to set what Fines they please upon their Tenants, at Death or Alienation) is expresse Tyranicall, and contrary to the peace and freedome of this Common-Wealth, as fully manifested in a Declaration of this Parliament, set forth in *March* 1648. In these words, The Parliamen of *England*, elected by the People, whom they represent, have long contended against Tyranny, and endeavoured to remove oppression, Arbitrary power, or power of will, and all opposition to the peace and freedome of the Nation. And again in another Declaration of the 7th. of *April*, 1646. in this manner. And as both Houses have already for the ease and benefit of the people, taken away the Court of Wards and Liberties, with all Tenures in Capite and Knight services: So we will take speciall care, that as speedy and as great ease, may be had otherwise in other grievances, as the pressing occasions of the Common-wealth will admit. Wherefore (these Arguments premised, being seriously considered) we humbly crave of your Excellency, that you would be pleased to intercede with our Representative, for the removall of that unjust and slavish bondage and yoke, which neither we, nor our fore-fathers have been able to bear; that so we may not onely in spiritualls but in temporalls, enjoy that freedome and liberty, which not onely in Law, but by right of Conquest is due to the well-affected people of this Common-Wealth. It is the Law of Nature, yea and the Law of Christ too, *Fac alteri, quod tibi vis fieri*, Do to others as you would be done to. If so; How can freedome and liberty be denyed to those, who with the hazard and losse of their lives, goods, and all, have purchased freedome and liberty, not onely to their Representatives, and wel-affected Potentates, but also to those who have beene enemies to this Common-wealth; whereby they, who under the Monarchicall yoke were in bondage, not onely in respect of their estates, but of their persons also, are now restored to a noble and glorious liberty, whilst their fellow brethren, who ought to be sharers in this freedom, lye under the burthen of Tythes, and bondage of Copy-holds; many whereof do at this day

retain

retain the dishonourable names of base Tenure and Villenage in the worse sense, as if we were rather returning back to Egypt, then in our progresse to *Canaan*. Ah most religious Sir! did we not *Demus* like mind our own present power and profit, more then our trust and promises in times of danger, these things could not be: But what shall we say, *Deus dabit his quoque finem*, God will in his due time put a period to these things. Now to conclude, we once more humbly desire your Excellencies favour and assistance in gaining freedom to those, who have been greatly instrumental in the work of the Lord, and for whose sake peradventure God hath beene gracious to this our Sion and Common-wealth. And we shall not onely pray for the eternall happinesse of your Excellency, but also take the boldnesse to subscribe, as in all duty and gratitude we are bound.

*Your Excellencies most humble Servants
in the Lord Christ.*

The



*The Petition of the Inhabitants of the
County of Middlesex, concerning
Tythes, and Copy-holds of Inheritance
presented to the Supream Authority
the Parliament of England.*

Sheweth,

THat as your Petitioners are really sensible of the unwearied labours this honourable Parliament hath undergone, in the Vindication of the Rights and liberties of the free-borne people of this Nation, from the incroaching Tyranny of Kingly and Lordly power, for which they returne a gratefull acknowledgement: So they desire to minde you, that the wel-affected of this Nation, have, in this common clause of publique freedome and preservation, faithfully served you in their severall places, willingly undergoing all burthens, either of Tax or Free-quarter; besides the voluntary loanes of very many, even beyon their abilities, upon the propositions. And since it is the undoubted right of the free-borne people of this Nation, from whom all just power is derived, to present to their Parliament, or Representative, all their grievances, that so Adequate remedies may be duly applied. Therefore we offer to your more serious considerations, these ensuing particulars to be speedily redressed.

First,

First, Forasmuch as all Tythes, reliques of the late destroyed Hierarchy, are declared in the 2d. Booke of *Cookes Reports*, in the Bishop of *Winchesters* Case, to be thing meerly spirituall, and due by divine right; and for which there is no remedy at the Common Law: and also in his 2d. Booke of *Instit.* and Chap. of Tythes, that by the Common Lawes and customes of this Nation, Lands are undecimable: which is fully evidenced by a Canon of the Councell of Lateran, under Greg. 10th, 1274. in this manner; *Let no man give his Tythes where he pleaseth as before, but let them be paid to Mother Church.* And Britton, though a Bishop, treating of Ecclesiasticall power, and of what things the Church had commission, doth wholly omit Tythes, knowing very well that those Popish Canons and constitutions, which not long before, had been made for the taking away the Tenths of mens Estates, were totally void, being Diametrically repugnant to Magna Charta. Which likewise is further attested, by a decretall Epistle sent from Innocent the third Pope of Rome, to the Arch-Bishop of *Canterbury*, about the yeare 1290. wherein it is clearly acknowledged, that the free borne people of this Nation, did by the Generall, and till then observed custome of this Land, dispose of the Tythes or Tenths of their estates, according to their own free will and pleasure. So it is very cleare, Tythes have bene formerly by the Popish Clergy subtilly periwaded, or rather extorted from our Ancesters, under the notion and consideration onely of a Divine right, and chiefly by virtue of the said Decretall, which so awed our fore-fathers, that it frightened them into a servile and unwilling obedience. Wherefore we humbly desire that all Tythes and Tenths (under the notion whereof we pay a fifth) may be speedily removed as a great Oppression and Usurpation, that to Husbandry and Tillage may thereby receive the greater encouragement; and that all Impropricators may receive such reasonable satisfaction (notwithstanding much may be said to the contrary) as you in your wisdomes shall thinke fit. And that likewise a comfortable maintenance, may some other quiet and peaceable way according to the Word of God, be provided for the Ministry,

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that

that so the glorious Gospel of Jesus Christ may no longer be impeded, by that sensuall and earthly *Remora* of litigious Tything, but that all Evangelical Messengers may with the Apostle *Paul*, by the sweetnesse of their lives and conversions, convince gain-sayers, that they come not to seek ours, but us.

Secondly, That all Copy-hold Lands of inheritance, may be made free from all Fines, Heriots, and other slavish services brought in by, and after the *Norman* Tyranny, as may appeare by *Bracton* a great Lawyer in *H. 3.* his time, in his first Booke and 7th. Chapter, of the Customes of *England*, where he saith, that, in the Conquest, men held their Lands freely, by free services or customes, and certaine, untill being thrown out by usurping *Normans*, and their adherents; they were enforced to retake them againe, to hold by unjust and unequall termes and services, yet still certaine and nominated; which through the avarice, cruelty and oppression of succeeding Lords of Mannors, have been increased illegally, to a strange multiplication of Heriots, and Arbitrary raising of Fines, from two yeares value, according to the Quittrent, to two and three yeares value according to the full Rent, a thing altogether unreasonable, and unconscionable, as hath been clearly adjudged. And although your Petitioners humbly conceive, that Copy-holdes of inheritance, ought by their tenures to have beene protected by their Lords, and to have been freed in this time of Warre, from all publike burthens and taxes; yet so farre have they beene from affording the same unto them, that they have for the most part, forsaken and denyed them protection, whereby their Copy-hold Tenants by them deserted, have for a great part most willingly adhered to the Common-Wealth, and have laid out themselves to the utmost, in bearing an equall share in all publike burthens with the Free-holders, to the impoverishing of themselves, their Wives and Children. And moreover since, as we are informed, much of their Lands settled upon the Souldiery for their Arrears, are freed from all Tythes, Fines, and other slavish services which we envy not, but exceedingly congratulate; nay

may since all Lands held in Capite and Knight service, are by an Act of this present Parliament freed from all ward-ships, and other slavish incombance, notwithstanding the greatest benefit thereof, doth redound to the advantage and emolument of these, who have been in actuall Armes against the State; or who at least in their declared affections, have beene utter enemies thereof: Seeing we say, that not onely the Army, but your enemies have tasted so deeply of your grace and favour: Let it not be said in *Gath*, nor published in the streets of *Ascalon*, that your dearest friends, those out of whom your Armies have been raised, formed, and supplied with men and money all along; those by whom you have in the greatest dangers of times of exigency, been most readily and willingly assisted, even to the hazard and losse of their lives: Let it not be said, we humbly reiterate, that those who have bin your friends, Gods friends, and their Countries friends, should now at length be left to remaine in bondage, and *Gileonitis* slavery, whilst their enemies riot and abound in liberty and freedom. Wherefore we humbly desire, that all Copy-holders of Inheritance, may according to your severall Declarations of the 7th. of *April*, 1636. and of *March*, 1648 be restored to christian freedom and liberty, the fruits of Conquest, and the just reward of their expence and hazard, that so of victors they may not become slaves and vassals in their estates, to their conquered Lords, whom they begin already to feel, and are daily like to find more cruell and unreasonable then ever, if they shall return again to reign over them, with the full sayle of usurped power.

Thus hoping that the same God, who hath even miraculous given you Victory over your enemies, rest from wars, peace in your Habitations; and put a power into your hands to do righteous things for the good of this Nation, will also put into your hearts and minds, to doe these things represented unto you; and what else, you in your wisdoms shall know to be for the good and wel-fare of this Common-wealth.

And we shall ever pray, &c.

The

* Quando
lex accom-
modatur ad
causam &
personam
& non e-
contris;
When the
Law is, ap-
plied to the
case and
person, not
they to it.

*The Case of Copy-holders stated accord-
ing to the * Lesbian Rule of the Law in
the corrupt times of Monarchy; wherein
is clearely proved, that no Lord of a
Mannor of Copy-holds of Inheritance,
can take for a Fine where (as they say
is) uncertaine, of his Copy-hold Tenant
two years clear yearly value of the Land*

First, Because it is resolved by *Popham* chief Justice, *Clench*,
Gandy, and *Fewer*, Iustices of the upper Bench in the 42. and
43 *Eliz.* betweene *Hubbard* and *Hammon*; that if the Fines of
Copy-holders of a Mannor are incertaine upon admittar-
ces, yet the Lord may not demand or exact an excessive or un-
reasonable Fine; and if he doth, the Copy-holder may deny
to pay it without forfeiture: And according to this resolu-
tion, it was then said; that it had been formerly adjudged in
the same Court, in one *Hoddesdens* Case, *Cookes Reports*,
lib. 4to.

Now it is a Rule and Maxime, that all excessivenesse is ab-
horred in Law; and that all things ought to be interpreted
with equity and moderation. As put case, the Lord of a
Mannor, where Fines, through his tyranny are incertaine,
hath taken time out of mind, about a yeares value, not much
under nor over: If there one of his Copy-hold Tenants shall
improve his Land by great charge and industry, from 5 l. *per*
annum, to be worth 20 l. *per annum*, and then dye, and after
the Lord shall set two yeares Fine, viz. 40 l. upon his Heire;
this will be an excessive and most unreasonable Fine. First,
Because where a Lord hath usually taken about a year, though
a little under or over, there to take a year and halfe, (though
according to the value before improvement) is excessive, and
so illegall; if the Rules of right reason, moderation and e-
quity, were closely held to and kept. Next, it is altogether
un-

unreasonable, because, through this improvement of the Tenant, with a vast expence and charge, perhaps treble to the Land; the Lord now comes to take a little compasse of time, at a yeare and halfe Fine, six yeares value, at two yeares Fine, eight yeares value, according to the yearly Rent and worth of the Land before improvement: So that now a covetous and unconscionable Lord, (as to many there are) will take advantage to enrich himselfe out of the Tenants vast expence and industry, contrary to the Rules of Justice, equity and honesty.

Secondly, and lastly, No Lord of a Mannor can by the present Law, take two yeares cleare yearly value for a Fine, where (as Lawyers say) they are uncertaine, (though repugnant to those great Authorities in the Letter before recited, and contrary to their own Maximes, and abundantly favouring of tyranny) upon the admittance of a Copy-hold Tenant; as is clearely resolved in an Action of trespass by *Stallon* and *Brady*, commene'd in the first year of King *James*, in the Court of Common Pleas; where the Lord of the Mannor did set a Fine at two yeares cleare yearly value, which the Tenant denying to pay, being unreasonable the Lord enters, and thereupon the Tenant brings an Action of trespass, and after five yeares demurre, consultation being had with all the Judges and great Lawyers of *England*; it was at length, (*viz.*) in the sixth yeare of King *James*, by the Judges of the said Court of Common Pleas, fully and unanimously resolved, that the said Fine of two yeares was unreasonable, and so no forfeiture by the Tenants deniall.

Now from hence it must be concluded; that for any Lord of a Mannor to demand a yeare and halfe Fine, is the very utmost rigour and extremity of the Law, as it hath flowed to us out of the impure fountaine of Monarchy, and all those who have exacted more, have done illegall, and unwarrantable Acts, according to that *Lesbian* Rule.

But where Tenants have at their great charge, made improvements as is above declared, there for the Lord to take a yeare, much more a yeare and halfe; is altogether unconscionable, and against the Rules of equity. The

*The Case of intolerable Oppression in
point of Heriots.*

A Copy-hold Tenant holds 100. Acres of Land worth *per annum* 5 s. per Acre, and 20 s. Rent yearly; and for which, the Lord claimes a Heriot upon Death. The Tenant aliens this Land to two men; now by our Booke Law, made in corrupt times meerly in favour of Lords, and to oppresse poore people; the Lord of the Mannor shall have his 20 s. Rent, and besides, a Heriot for every Acre upon the death of every particular Tenan; for this reason, which is no reason, because a Heriot is an indivisible service: so that it may so fall out, that the Lord shall have Heriots in a short time, to the value of one thousand pounds, whereas the whole is not worth five hundred pounds. And besides a poore man having an Acre of this Land not worth five pound, and dying seised, the Lord shall enter upon his Goods, and take away for a Heriot, a Cow or Horse worth six or eight pound, to the utter ruine of his Wife and Children.

Now from a division of Land to urge a multiplication of Heriots, hath neither ancient Law, reason or honesty in it, notwithstanding those slight Arguments, and fond distinctions of Heriot, Service, and Heriot Custome, which are used to the contrary.

FINIS.

